

**v IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

STEPHANIE GASCA, et al.

Plaintiffs,

v.

ANNE L. PRECYTHE, et al.,

Defendants.

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Case No. 17-cv-04149-SRB

PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND COSTS

Plaintiffs Stephanie Gasca, Mildred Curren, Timothy Gallagher, Kenneth Wise, Jesse Neely, Solomon Warren, and Amber Wyse, for themselves and on behalf of the certified class (collectively, "Plaintiffs") seek an order requiring Defendants to pay their reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and FED. R. CIV. P. 54(d), because they are undoubtedly the prevailing party in this six-year long, complex civil rights case. In support, Plaintiffs state as follows:

1. The named plaintiffs filed this class action lawsuit over six years ago to advocate on behalf of themselves and thousands of other people who are similarly situated—people who every day are at risk of suffering a grievous loss by being reincarcerated through a parole revocation system that the Missouri Department of Corrections ("MoDOC") admitted was unconstitutional. Plaintiffs' counsel marshalled voluminous evidence of the systemic deficiencies plaguing MoDOC's revocation processes, and demonstrated their entitlement to judgment as a matter of law. MoDOC conceded liability. After failed attempts to negotiate a settlement, MoDOC then tried to dismiss the entire lawsuit, claiming the public defender needed to be involved and that the procedural changes it made during the lawsuit mooted the issue. In June 2020, after a brief evidentiary hearing, this Court properly concluded that many due process violations persist.

Despite having proven a powerful case of decades-long constitutional violations, Plaintiffs' counsel had to defend the Court's remedial order before the Eighth Circuit. They did so successfully. This case is one of significant importance and size, and required particular expertise and skill to litigate. Plaintiffs were fully successful on their sole claim against MoDOC. Plaintiffs' counsel should be reimbursed their fees and expenses incurred in this six-year long battle.

2. In order to award attorneys' fees, Plaintiffs must be considered the prevailing party. *Farrar v. Hobby*, 506 U.S. 103, 109 (1992). Plaintiffs are undoubtedly the prevailing party in this case. Further, the time spent on the case and hourly fees charged are reasonable, especially in light of the scope and complexity of this large class action lawsuit. As detailed in the accompanying memorandum, the lodestar and presumptive attorneys' fee is \$476,603.50.

3. A prevailing party in civil rights litigation is entitled to non-taxable expenses. *Warnock v. Archer*, 397 F.3d 1024, 1027 (8th Cir. 2005) (prevailing party is entitled to "items reasonably charged by attorneys to their clients"); *see also Moore v. City of Des Moines*, 766 F.2d 343, 346 (8th Cir. 1985). Travel expenses, expert witnesses, and other fees incurred during litigation are included in the award. *Warnock*, 397 F.3d at 1027; *McDonald*, 860 F.2d 1456. In this case, Plaintiffs seek reimbursement for expert fees and other reasonable litigation expenses, including out-of-pocket expenses for travel. These costs are detailed in the affidavit of Ms. Breihan, and total \$79,085.68. Plaintiffs also request that any out-of-pocket expenses this Court determines were erroneously included in their Bill of Costs (Doc. 365) be instead awarded as non-taxable expenses.

4. Pursuant to L.R. 7.0, suggestions in support of this motion are filed contemporaneously herewith and incorporated herein by reference.

WHEREFORE, for the reasons stated above and in the accompanying memorandum, and pursuant to 42 U.S.C. § 1988, Plaintiffs respectfully request that this Court award Plaintiffs' attorneys at Roderick & Solange MacArthur Justice Center \$476,603.50 in attorneys' fees, and \$79,085.68 in costs, which includes \$20,925.00 of expert fees, for a total amount of \$555,689.18.

Dated: November 28, 2023

Respectfully submitted,

By: /s/ Amy E. Breihan

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